THE MADRAS CITY CIVIL COURT ACT, 1892.

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ACT No. VII OF 1892.[1]

[THE MADRAS CITY CIVIL COURT ACT, 1892.][2]

[*12th August 1892.*]

An Act to establish an additional Civil Court for the City of Madras.

WHEREAS it is expedient to establish an additional Civil Court for the City of Madras; It is hereby enacted as follows :—

Title.

1. (1) This Act may be called the Madras City Civil Court Act, 1892.

* * * * * [3]

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "City Court" means the Court established under the next following section ;

(2) "City of Madras" means the area within the local limits for the time being of the ordinary original civil jurisdiction of the High Court ;

(3) "High Court" means the High Court of Judicature at Madras ; and

(4) "Small Cause Court" means the Court of Small Causes of Madras.

Constitution of the City Court.

3. The [4][State Government] may, by notification in the Official Gazette, establish a Court, to be called the Madras City Civil Court, with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding two thousand five hundred rupees in value and arising within the City of Madras, except suits or proceedings which are cognizable—

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(*b*) by the Court for the relief of insolvent debtors, or

(*c*) by the Small Cause Court.

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[1] For Statement of Objects and Reasons, *see Gazette of India*, 1891, Pt. V, p. 144 ; for Preliminary Report of the Select Committee, *see Gazette of India*, 1892, Pt. V, p. 9 ; for Further Report, *see ibid*, p. 49 ; and for the Final Report, *see ibid*, p. 59 ; for Proceedings in Council, *see ibid*, 1891, Pt. VI, p. 119 ; and *ibid*, 1892, Pt. VI, pp. 6, 13, 20, 23, 37, 57 and 61.

[2] *See* also the Madras City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1916 (Madras Act V of 1916).

[3] The word "and" and sub-section (2) were repealed by the Repealing and Amending Act, 1914 (Central Act XVII of 1914), s. 3 and Sch. II.

[4] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

Power of State Government to enhance the jurisdiction of the City Court.

[1][3-A. Subject to the exceptions specified in section 3 the [2][State Government] may, by notification in the Official Gazette, invest the City Court with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature arising within the City of Madras and of such value not exceeding ten thousand rupees as may be specified in the notification.]

Number of Judges.

[3][4. The number of Judges to be appointed to the City Court shall be such as may from time to time be fixed by the State Government by notification in the Official Gazette.]

Judge of City Court to be Judge of Small Cause Court.

5. (1) Every person appointed a Judge of the City Court shall be, by virtue of his office, a Judge of the Small Cause Court with respect to cases cognizable by that Court.

(2) Every such Judge shall be liable to perform any duties of a Judge of the Small Cause Court which the Chief Justice of the High Court may require him to perform.

Powers of Judges when City Court consists of more than one Judge.

6. When the City Court consists of more than one Judge—

(*a*) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force ;

[4][(*b*) one of the Judges shall be appointed the Principal Judge ; and]

(*c*) the Principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the Court among the various Judges thereof.

Ministerial Officers.

[5][7. (1) There shall be appointed to the City Court as many clerks, bailiffs and other Ministerial Officers as the State Government may from time to time consider necessary.

(2) The clerks, bailiffs and other ministerial officers so appointed shall exercise such powers and discharge such duties of a ministerial nature as the Judge or, when the Court consists of more than one Judge, the Principal Judge, may from time to time direct.]

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[1] Section 3-A was inserted by section 2 of the Madras City Civil Court (Amendment) Act, 1934 (Madras Act I of 1935).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] This section was substituted for the original section 4 by the Adaptation Order of 1937.

[4] This clause was substituted for the original clause (*b*) by *ibid.*

[5] This section was substituted for the original section 7 by *ibid.*

Questions arising in suits, etc., under Act to be dealt with according to law administered by High Court.

8. All questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Valuation of immovable property for jurisdictional purposes.

9. When the subject-matter of any suit or other proceeding is land or a house or a garden, its value for the purposes of the jurisdiction conferred on the City Court by this Act shall, subject to the other provisions of this Act, be fixed in manner provided by the Court-fees Act, 1870, section 7, clause v.

Central Act VII of 1870.

Process-fees.

10. Fees[1] chargeable for serving or executing processes issued by the City Court, or served or executed under its direction or control, shall be such as the High Court may prescribe with the approval of the [2][State Government of Madras] * * * * *[3].

Central Act XIV of 1882.

Appointment of Receivers.

11. The powers conferred by Chapter XXXVI of the Code of Civil Procedure[4] on High Courts and District Courts as to the appointment of Receivers, may be exercised by the City Court or any Judge thereof.

12. [Amendment of Central Act XV of 1882, section 31]. Repealed by the Repealing Act, 1938 (Central Act I of 1938).

Repayment of half fees on settlement before hearing.

13. Whenever any suit or proceeding in the City Court is settled by agreement of the parties before issues have been settled or any evidence recorded, half the amount of the institution fees paid by the plaintiff shall be repaid to him by the Court.

Central Act XIV of 1882.

Allowance for fees paid in City Court in cases removed to High Court.

14. When, under section 13 of the Letters Patent for the High Court, dated the twenty-eighth day of December, 1865, or under section 25 of the Code of Civil Procedure,[4] the High Court has removed for trial by itself any suit from the City Court, fees on the scale for the time being in force in the High Court as a Court of ordinary original civil jurisdiction shall be payable in that Court in respect of the suit and proceedings therein :

Provided that, in the levy of any such fees which, according to the practice of the Court, are credited to the Government, credit shall be given to the plaintiff in the suit for any fee

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[1] For fees prescribed for serving and executing processes issued by the Madras City Civil Court, *see Fort St. George Gazette*, 1892, Pt. I, p. 1553.

[2] The words "Provincial Government of Madras" were substituted for the words "Governor of Fort St. George in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

[3] The words "and the sanction of the Governor-General in Council" were omitted by the Decentralization Act, 1914 (Central Act IV of 1914), s. 2 and Schedule.

[4] *See* now the Code of Civil Procedure, 1908 (Central Act V of 1908).

which in the City Court he has already paid under the Court-fees Act, 1870, on the plaint. Central Act VII of 1870.

Appeals.

15. (1) The Court authorized to hear appeals from the City Court shall be the High Court.

(2) The period of limitation for an appeal from a decree or order of the City Court shall be the same as that provided by law for an appeal from a decree or order of the High Court in the exercise of its original jurisdiction.

Saving of original civil jurisdiction of High Court.

16. Nothing in this Act contained shall affect the original civil jurisdiction of the High Court :

Provided that—

(1) if any suit or other proceeding is instituted in the High Court which, in the opinion of the Judge who tries the same (whose opinion shall be final), ought to have been instituted in the City Court, no costs shall be allowed to a successful plaintiff and a successful defendant shall be allowed his costs [1][at the maximum admissible under the Madras High Court Fees Rules for suits set down for final disposal].

(2) in any suit or other proceeding pending at any time in the High Court, any Judge of such Court may, at any stage thereof make an order transferring the same to the City Court if in his opinion such suit or proceeding is within the jurisdiction of that Court and should be tried therein ;

(3) in any suit or other proceeding so transferred, the Court-fees Act, 1870, shall apply, credit being given for any fees levied in the High Court. Central Act VII of 1870.

Seal to be used.

17. The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the [2][State Government].

Holidays and vacations.

18. (1) The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the [2][State Government].

(2) Such list, when it has received such approval, shall be published in the Official Gazette, and the said holidays and vacations shall be observed accordingly.

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[1] These words were substituted for the words "as between attorney and client", by section 2 of the Madras City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1945 (Madras Act I of 1945). This was permanently re-enacted by section 2 of and the First Schedule to the Madras Re-enacting and Repealing (No. I) Act, 1948 (Madras Act VII of 1948).

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.